App.F.IX-4

1925.

File No. 197-25

Previous References (Mugavi)

Serial Nos. 1 – 4

Later references.
Mug 197-25-5-6

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 4

Part B for May 1926

SUBJECT

Appeal petition of Thimmakka, wife of Basappa re order of the resumption of S. No. 163 of Hadikere Village, Tarikere Taluq.

G. O. No 1464
Date 14.5.26

To the Mug. Comr.

The appeal is dismissed

G. R. S. 11] 1925

GENERAL AND REVENUE SECRETARIAT.

(Muz.)

NOTES.

File No. 197 / 1925.

FILE HEADING.

Resumption of S. No. 163 of Hadikere Village, Dharwar Taluka alienated through Sale from Sri Channa Kesava Devaru temple in the Village.

From

Thimmakka wife of Basappa.

~~No.~~ Petition Dated 15. 1. 26. Received

Diary No.	Enclos.	Spare Copies.	Serial No.
798	1	—	1

BRIEF ABSTRACT OF LETTER.

Appeals against the Muz. Comrs. order directing him to civil court against the Dy. Comrs. order of the resumption of the said Land for unauthorized alienation through Sale.

NOTES AND ORDERS.

R

The petition is duly Stamped. A copy of the Muz. Comrs. order appealed against has been produced. The Muz. Comrs. order is dated 16-9-1925 while the appeal petition

NOTES—First Sheet.

General and Revenue Secretariat.

File No. 197 of 1925

Serial No.

has received on 15. 1. 1926.
It is barred by time, and
the applt. gives reasons
for delay in filing the
appeal in the last para
of the petition.
3 May a report with records
be called for?
Submr. for orders.
4 The delay in filing the
20-1-1925 appeal may perhaps
be condoned and a
report with records called for.
20/1/26 5 The appeal may
be admitted subject
to the question of limitation.
The records with report called for.
Rev. Sec'y) 20/1
6 This is a rent in petition.
The records may be called for.
519 21/1 7 Mr. Mackay 20.1.26.
8 Yes
Dy. Secy.
23.1.26
11 Issue. 23/1
Why not
use usual
printed forms (O.M.)
23/1

NOTE—Contn. Sheet

G.T. S. III-2]

File No. of 19.

Serial No.	

NOTE—Contn. Sheet

Serial No.

2 To Mur Commr. No 924 of 26-1-26
calls for report with
records in the above case.

3. From, The Mur. Commr
Letter no. 8727 of 27.3.26.
Submits the records and the
report called for in Sl. 2.
11 The Dy. Comrs. order dated 13th
July 1924 explains the facts of the
case fully.
12 S. no. 163 of Hadikere village in
the Tarikere Taluk is a Kandayam
land endowed to Sri Channa Kesava
Devaru temple in the village.
Under a Sale Deed dated 13th
May 1922, the land was sold
by the Archak Channa Kesavaiya
and his son for ~~Rs~~ 1000/-
to Basappa, and the present
applt Thimmakka is his wife.
13 The matter came up
for orders before the Dy.
Comr. (The present Rev Secretary)
who found that the Sale
deed was a fraud and
directed its resumption
for the benefit of the inam
On appeal, the Mur. Comr
found that action has been
taken under Sec. 10 of the Mur.
Regn.

NOTE —Contn. Sheet

WD 01264—GPB—40,000 -

[App. F. III—2

evenue
ecretariat

File No 197 of 192 5.

Serial No

2 Regn which provided for a suit in the civil court to persons aggrieved by such action, and an appeal could not lie to the Munz. Comr. He dismissed the appeal.

E 15 Against this order, Venkatesh has appealed to Govt.

16 The grounds for appeal are summarized in the petition.

17 The applt prays that the order of the Dy. Comr which was not interfered with by the Munz. Comr be revised, and the case remanded for fresh disposal according to law.

18 Submit. for orders.

8.4.1926. 8/4/26

k 19 The D.C has held a full enquiry into this case & passed order, (Ex K) directing the resumption of the land of the Temple, the sale transaction being a fraud. As observed by the R.C., the action by the D.C is evidently under Sec 10 of the Munz Regn. The D.C's order on appeal, referring the party to a civil Court seems correct, & may be upheld.

20 The appeal may be rejected.

21 Rev. Sec'y) 10/4

NOTE—Contn. Sheet

WD 01264—GPB—40,000 -17-12-25

General and Revenue Secretariat | File No 197 of 1925.

Serial No

2/

The points to be noted in the case are whether

1) The alienation has been within 3 years from the date of the issue of the notice to the alienee.

2) There has been a summary enquiry under the provisions of the L.R. code.

The records show that the circumstances of the case bring it within the purview of section 10 of the Mag. Reg. As my self the merits I do not wish to offer any remarks.

1st member

12.4.26.

14/4

410/12.4

23 Was a Dy. order of possession under Sec 10 of the Mag. Reg. in his capacity of Mag. Reg.? Does the record indicate so?

16/4

5/5/26

K. 7- 25 A perusal of the Dy. Comrs. order will show that action was taken by him under Sec. 10 of the Mag. Reg., though he does not specifically say so.

25 The Mag. Comr. states in his order appealed against that action has been taken under Sec. 10 of the Mag. Reg. ~~[illegible]~~ submr.

19.4.26. 19.4.26 25 The action of the D.C is evidently under Sec 10 of the Mag. Reg. as observed by the R.C., though it is not

NOTE—Contn. Sheet

WD 01264—GPB—40,000—17-12-23

Serial No.

Specifically stated by the D.C.

27) Rev. Secy) 19/4

Seen the Secy & took instructions.

28) The appn was thereby rejected

29) The requirements for an order by a Mazrai officer under Sec 10 of the Maz. Regn., are:-

(1) wrongful alienation by way of sale, barter, mortgage, lease or otherwise, of the property belonging to a religious or charitable institution;

(2) Issue of a notice to the alienee;

(3) Holding of a summary enquiry (in accordance with the L.R. Code);

(4) the alienation to be within 3 years before the date of issuing a notice.

30 In the present case, all these requirements are complied with. The order has been passed by the D.C. who under the Regn. (Sec 2(4)) is a Mazrai officer, after the issue of a notice to the alienee (K T), after a personal inspection of the spot, & after hearing the party & her counsel, & examining the documents produced in the case. The order passed, (K K) has fully recorded all the proceedings in the case, with the contentions of-

NOTE—Contn. Sheet

WD 01264—GPB—40,000 - 17-12 25

General and Revenue Secretariat

File No 197 of 1925.

Serial No.

The party, the material evidence the decision & the reasons for the same. (vide Sec 203 L.R. Code - defn of Summary enquiry). The alienation (i.e, the sale in this case) was in may 1922 (ie D = Sale deed) & ~~was~~ within 3 years from the date of notice (1924 march 26th). In fact, the whole proceedings was in 1924 & within 3 years from the alienation.

31 The action of the D.C. may therefore be taken to be under Sec 10 of the Mur. Regn., though the order does not mention the section. The ~~M~~ D.C's order (Ex H) notes this section.

32 Refs:- Member's minute. (Para 23).

33 I submit) 24/4

418 24/4/26

34) The Rev Sec's note please

[illegible] 24/4

The order ~~of~~ of the Dy Com ~~was based~~ Evidence ~~of~~ them, in his capacity & Rent officer, [illegible]

Serial No.

35) It is seen from the records that the petition of Thirumalai was signed by him & DC was forwarding papers of them in his capacity as the Agent as the applicant Thirumalai's petition & 21/6/24 to the Dy. Com. describing the case as the Rev. Com

36) The order being one under Sec 13 of the Rent Regn (though the Section may not exactly specifically mention & be within order). The only remedy open to the party aggrieved by the order & bring a suit under Sec 13 of the Regn for cancellation of the order. As the party failed seek the remedy within the time prescribed by law for this purpose & cannot claim as a matter of right in consequence of Sec 2 (c) of the Rent Act no appeal lies first appeal. And D.C's order was in case.

37) The appeal is accordingly dismissed

dy
3/5/26

38) D/R. S.O. submitted for approval.
4/5

AR 10.5.26 dy 11/5/26 Rev. Sec'y
11/5

39) 12/5 dy 4/5

NOTE—Contn. Sheet

WD 01264—GPB—40,000—1 -12-25

Revenue at

Mess File No. 197 of 1925

Serial No.	
4	To. mess Comms G.O.No 1464 & 14 5/26 Rejects the appeal for reasons stated.

15/2575

NOTE- Contn. Sheet

BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE, BANGALORE.

Muz. Rev. Petn. No. of 25-26.

Petitioner.	Vs.	Opponent.
Thimmakka, Wife of Kalakkana Basappa of Hadikere Village, Amritapore Hobli, Tarikere Taluk.		Chennakesava Devaru Temple, Hadikere, Tarikere Taluk.

Under Section 22 of the Mysore Muzrai Regulation 1913, the Petitioner, abovenamed, prays that the order of the Muzrai Commissioner in Muz. Appeal No. 18 of 24-25 be revised for the following among other grounds:-

1.. That the learned Muzrai Commissioner erred in dismissing the appeal in limine under the Misapprehension that the learned Deputy Commissioner's Order was one under Section 10 of the Muz. Regulation though the latter's order is silent as regards the provision of law on which he proceeded to decide the question before him.

2. That the learned Deputy Commissioner's order was only an order in a Mis. Rev. appeal under Section 210 L.R.C. and not in any original proceedings.

3. That accepting the view that the learned Deputy Commissioner must have proceeded under Sec.10 of the Muzrai Regulation, there is really no order under Section 10 till the procedure contemplated by the Section is observed, and this not having been observed (as the petitioner submits in the following para) the learned Muzrai Commissioner ought to have remanded the case to the Deputy Commissioner for fresh disposal according to law.

4. That Section 10, Muzrai Regulation contemplates the holding of a enquiry by the Muzrai Officer himself.

5. That if the learned Deputy Commissioner sought to invoke the provisions of the Muzrai Regulation to render relief to the villages who alleged that the property belonging to the opponent had been wrongfully alienated, he had to hold "a summary enquiry in accordance with the provisions of the Mysore Land Revenue Code".

6. That the only enquiry that was conducted was the one conducted by the Amildar, who is not at all a Muzrai Officer (vide Section 2 of the Muzrai Regulation) and has not the authority to make a summary enquiry (Vide R. 101 L.R.R).

7. That the learned Deputy Commissioner only acted upon the enquiry conducted by the Amildar, Tarikere Taluk and any order based on such an enquiry not being a legal order the petitioner prays that the order of the learned Deputy Commissioner, Kadur, which was not interefered with by the learned Revenue Commissioner be revised and the case remanded for fresh disposal according to law.

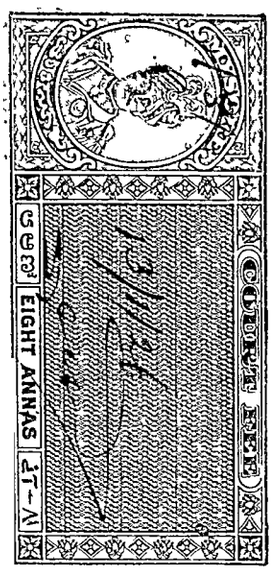
8. That as the order of the learned Revenue Commissioner was not communicated to the petitioner and the petitioner has filed this Revision Petition at the earliest opportunity after she was informed that an order had been passed, and after confirming the information by applying for the copy of an order which is annexed hereunto.

K Venkatarangaiya
Adv. for Petr.

Bangalore, 12th January 1926.

Order of the Muzrai Commissioner
in Mysore, Bangalore.

Subject:—



Appeal application no 18 of 24-25 dated 25th october 1924 of Dinmakka wife of Kalakkana Basappa of Hadikere-village. Amritapur Hobli, Tarikere Taluk against the order of the Deputy Commissioner Kadur District directing the resumption of S. no. 163 of Hadikere village endowed to Sri Chennakesavadevaru in the village.

Facts of the Case.

S. No. 163 Wet (Re. Sur. No. 208) of Hadikere village measuring a 3 g. 28 assessed at Rs 15/- stood in the Khata of the Sri Chennakesavadevaru in the village from the time of the original Survey Settlement and was in the enjoyment of the Archak. This temple land was Wrongly alienated by the Archak Chennakesavaiah and his Son Chennappa by Sale for Rs 1000/- to the appellants' husband since deceased and a deed dated 13-5-22 was executed and Registered. This Came to the notice of the taluk authorities through a Complaint by the villagers. Thereupon the

matter was enquired into and reported upon to the Deputy Commissioner who in his order of 13-7-24 directed the resumption of the land in favour of the temple and its lease for 5 years finding the transaction of sale a fraud The present appeal is against this order The appellant with her Counsel was heard on 10-7-1925

Order no. R. Dis 54 of 25-6 / one file 21-9-25

Dated Bangalore 21 Sept. 25.

This is a case in which action has evidently been taken under Section 15 of the Muzrai Regulation. The ~~Inam~~ Muzrai Regulation provides for a suit in the Civil Court to persons aggrieved by such action and there is no appeal lying to the Muzrai Commissioner The appeal is therefore dismissed

(Sd) C S B Casudavan pr 16/9/25
Muz: Comm[r]:

To.

The D.C. Kadur District returning the records received with his no A C 229/24-25 dated 17-12-24.

Copy

Before the Govt of His Highness the Maharajah of Mysore B'lore

~~In the Court of~~

Muz Rs **Case No.** **of 1925–26.**

Pet.

Thimmaiah.

vs.

Opp.

Chennakeshavadevaru Swami of Hadikere.

I the petitioner above named do hereby nominate and appoint Messrs. C. V. Narasimhaiengar, B.A., B.L., B. Krishnan, B.A., B.L., and S. K. Venkatarangaiengar, B.A., LL.B., in the above suit and I do hereby empower the said advs to appear for and on my behalf in the above suit, to take all and any steps which may be necessary on my behalf arising out of or in connection with the above suit either during progress or after its decision, to sign and subscribe his/their name to any document which ~~he~~ they may deem proper, to execute any decree that may be passed in my favour and to receive out of the said Court any sum of money which may be lodged or become payable or receivable on my behalf and on receipt thereof to grant receipt or other sufficient discharges for the same, to withdraw, compromise or refer to arbitration the said suit, to appoint one or more substitute or substitutes and to act and perform all other matters and things relating to or connected therewith, to represent me in matters relating to the same and to act in the premises as fully and effectually to all intents and purposes as I might do if personally present and did the same. And I do hereby agree to pay all fees, costs, charges and expenses which may be incurred and to allow, ratify, and confirm all and singular whatsoever the said advs shall lawfully do or cause or procure to be done in the premises by virtue of these presents.

In witness whereof I have hereunto set my hand this day of 9th January 1925.

ACCEPTED

S. K. Venkatarangaiengar

ತಿಮ್ಮಯ್ಯನವರಿಗೆಸ್ವಾಮಿ
ಚೆನ್ನಕೇಶವದೇವರು
ಹಾಡುವಳ್ಳಿಯವರು

for Petr

Signed before me by the executant who known to me

SUBJECT.....

Diary No. of letter replied to... 19...8

Section

File No. 197

Seria No. 1925

No. 924

Canara

To The Asst. Comr.

General and Revenue Secretariat

( )

the 192

Date of issue 26/1/26

Signed by.....

Sir,

I am directed to forward herewith for report his accounts petition regd no. 798 from Thimmappa Naik of Hadikere village in the Sirsi Taluka appealing against the Asst. Comr's order refusing her to Civil Courts against the Dy. Comr's. orders of the resumption of S. No. 163 of Hadikere village &c.

List of enclosures.....

Copied by.....

Examined by.....

over

WD 0562—GPB—31,000—17-8-25

alienated through Sale
from Sri chauna Kasada
Devaru temple in the
Village. He petitioner will discharge, no
one else returned. Hence this

By) Dr. Patterson

23.1.26

877 825-26 Office of the Muzrai Commissioner in Mysore.

Dated Bangalore, 26th March 1926.
27

From 4[illegible]59

B. Ramaswamaiya, Esq., B.A., B.L.,

Muzrai Commissioner in Mysore,

Bangalore.

GEN. & REV. SECRETARIAT
29MAR1926
MUZRAI

GENL. & REV. SECTT.
Bg. 7[illegible]
27. MAR. 1926
G. D. SECTION.

D. 1116
Muz 197-25-3

To B. Srinivasa Iyengar, Esq., B.A., B.L.,

Secretary to the Government of

His Highness the Maharaja of Mysore,

Revenue Department.

Sir,

With reference to your letter No.824/Muz.197-25-2 dated 26th January 1926 forwarding for report with records petition from ---- Thimmakka wife of Basappa of Hadikere village Tarikere Taluk ----- appealing against this office order in respect of the resumption of S.No.163 of Hadikere village endowed to Sri Channakesavaswamy ----- temple at the place, I have the honor to submit herewith the records received with the Kadur District Deputy Commissioner's letter No.H.C 375 of 25-26 dated 17th March 1926.

The facts of the case have been fully set forth in the order of this office contained in file No.R.Dis.54 of 25-26 dated 22nd September 1925 and herewith submitted. (7)

The petition and its enclosures are herewith returned.

I have the honor to be,

Sir,

Your most obedient servant,

B. Ramaswamaiya

Muzrai Commissioner.

IBJECT.....

Diary No. of letter replied to.....

SECTION Mur

FILE No. 197-25

SERIAL No. 4

Muzrai Secretariat

( )

the 192 .

Proceedings of the Government of
His Highness the Maharaja of Mysore

Date of issue 14/5/26

Signed by.....

Read—

Petition no 798 d/12 January 1926 from Thimmamma wife of Basappa appealing against the Muz. Comr's order ~~directing her to~~ dismissing the appeal ~~to publishing appeal~~ ~~to Civil Court~~ to against the Dy. Comr's. order of the resumption of ~~Kandayam~~ S. no. 163 of Hadikere village, Tarikere Taluk, alienated Hanchak Sale in favour of the Chandrasekharadevaru in the Village

Order Thereon No.

May this be

i Printed ?

ii treated as a standing order ?

iii published in the Gazette. English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette, Kannada Part ?

archakar of the
~~Temple~~ Sri Channa Kesava
Devaru temple in the
village.

Letter no. 847 dt 27th
March 1926 from the Dy
Comr in mysore reporting
on the subject.

Order thereon. No. 1464 Cistrosts
14-5-26

~~Govt observe~~
~~It is seen~~ From ~~the~~ a perusal of the records,
~~Record~~ Govt observe that the order of
the Dy. Comr, appealed against,
passes by him in his
capacity as Mezrai
officer, as the apl
Thimmakka's petition dt
21-6-24 to the Dy.
Comr itself describes the
case as a Muz. mis. case.

The order being one

List of enclosures.

Copied by

Examined by

WD 0566—2000—GPB—29-7-22

G. R. S. G/33]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

under Sec. 10 of the Inc. Regn. (Though the Section has not been specifically mentioned by the Dy. Com. in the order), the only remedy open to the parties aggrieved by the order has by way of filing a suit under Sec. 13 of the Regn., for cancellation of his order. If the party failed to seek the remedy within the time prescribed by law for the purpose, she has to take the consequences under Sec. 24 of the Income-tax Regulations, no appeal lies to Govt. against the Dy. Com's order in the case.

The appeal is accordingly dismissed. ~~The appellant~~ will be informed.

WD 2230—GPB—1,00,000—23-7-20

accordingly.

L/12/5

Rev- Secretary

To Rec'd 11/5/26

Memo with the Record.

~~Copy~~ Memo 1465 D/14/5/26

Copy to the appellant. Mrs

d